

AMENDED IN ASSEMBLY APRIL 8, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 394

Introduced by Assembly Member Montanez

February 14, 2003

An act to amend Sections 26738 and 26746 of, and to add Section 26723 to, the Government Code, relating to law enforcement fees.

LEGISLATIVE COUNSEL'S DIGEST

AB 394, as amended, Montanez. Law enforcement fees.

(1) Existing law establishes provisions by which a levying officer may serve a writ to attach property in a safe deposit box.

This bill would impose a fee of \$125 for levying on a safe deposit box, as specified. The bill would also revise and increase existing fees for serving, executing, and processing court notices, writs, orders, and other services provided by sheriffs and marshals.

(2) Existing law requires certain processing fees to be assessed for each disbursement of money collected pursuant to specified writs, and further requires that the proceeds of these fees be deposited in a special fund in the county treasury for allocation according to specified percentages.

This bill would delete those percentages and instead require the fund to be expended to supplement the county's cost for vehicle fleet replacement and equipment, maintenance, ~~and computer automation for sheriff court services~~, and civil process operations.

The bill, by requiring assessment of a new processing fee, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 26723 is added to the Government
2 Code, to read:

3 26723. The fee for levying on a safe deposit box pursuant to
4 Sections 488.460 and 700.150 of the Code of Civil Procedure shall
5 be one hundred and twenty-five dollars (\$125), including any
6 opening of the safe deposit box and seizure of its contents.

7 SEC. 2. Section 26738 of the Government Code is amended
8 to read:

9 26738. The fee for making a not found return on a summons,
10 affidavit and order, order for appearance, subpoena, writ of
11 attachment, writ of execution, writ of possession, order for
12 delivery of personal property, or other process or notice required
13 to be served, certifying that the person or property cannot be found
14 at the address specified shall be thirty dollars (\$30).

15 SEC. 3. Section 26746 of the Government Code is amended
16 to read:

17 26746. In addition to any other fees required by law, a
18 processing fee of ten dollars (\$10) shall be assessed for each
19 disbursement of money collected under a writ of attachment,
20 execution, possession, or sale, but excluding any action by the
21 local child support agency for the establishment or enforcement of
22 a child support obligation. The fee shall be collected from the
23 judgment debtor in addition to, and in the same manner as, the
24 moneys collected under the writ. All proceeds of this fee shall be



1 deposited in a special fund in the county treasury. A separate
2 accounting of funds deposited shall be maintained for each
3 depositor, and funds deposited shall be for the exclusive use of the
4 depositor.

5 The special fund shall be expended to supplement the county's
6 cost for vehicle fleet replacement and equipment, maintenance,
7 ~~and computer automation for sheriff court services~~ *sheriff court*
8 *services*, and civil process operations.

9 ~~No fee shall be charged where~~

10 *A fee may not be charged if* the only disbursement is the return
11 of the judgment creditor's deposit for costs.

12 SEC. 4. Notwithstanding Section 17610 of the Government
13 Code, if the Commission on State Mandates determines that this
14 act contains costs mandated by the state, reimbursement to local
15 agencies and school districts for those costs shall be made pursuant
16 to Part 7 (commencing with Section 17500) of Division 4 of Title
17 2 of the Government Code. If the statewide cost of the claim for
18 reimbursement does not exceed one million dollars (\$1,000,000),
19 reimbursement shall be made from the State Mandates Claims
20 Fund.

